

REMARKS

Claims 2 and 5 are pending. Claim 2 is canceled. Claim 5 is amended. Support for the amendment may be found throughout the application as originally filed, for example, paragraphs [0042] and [0043]. No new matter is added.

Rejection under 35 U.S.C. § 103(a)

Claims 2 and 5 are rejected under 35 U.S.C. § 103(a) over Stein et al., 1994 (Stein) in view of Servais et al., 2001/GenBank Accession No. CAB86592 (Servais) and Kim et al., 2001 (Kim). The Office does not consider Applicants' arguments that the references lack suggestion or motivation, and states that “*...the rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from the knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law*”. See page 7.

Applicants respectfully traverse. None of the above references, expressly or impliedly, suggest the claimed invention that the RT mutation E194G correlates to a change in susceptibility or resistance of a HIV strain to a HIV RTI and the use of such correlation for evaluating the effectiveness of a HIV RTI.

Stein and Kim do not suggest the RT mutation E194G or its effect on an HIV RTI for a second anti-HIV therapy. Similarly, Servais does not suggest the effect of E194G on an HIV RTI for a second anti-HIV therapy. Therefore, the correlation of E194G to a change in susceptibility of an HIV reverse transcriptase inhibitor cannot be reasoned from Stein, Servais, Kim nor general knowledge at the time of the present application. Accordingly, without the teaching of the present application, a person skilled in the art is not able to use the specific mutation E194G in HIV RT as set forth in claim 5. To advance the prosecution, Applicants amended claim 5 to specify the RT mutation and the step of determining HIV susceptibility.

Accordingly, claim 5 as amended is not obvious in view of the cited references. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) are respectfully requested.

In view of the foregoing amendment and remarks, allowance of claim 5 is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayments necessitated by this Amendment to Deposit Account No. 10-0750/TIP0015USPCT/YR.

Respectfully submitted,

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Date: July 3, 2009

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